IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

MONDAY, THE 8TH OCTOBER 2007 / 16TH ASWINA 1929

WP(C).No. 29353 of 2007(T)

AGAINST THE ORDER IN EP 11/2002 IN
OS.539/1999 of PRL.M.C.,KOZHIKODE-II

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PETITIONER:

ANDIPPAT PURUSHOTHAMAN, S/O. KORU,
KADALUNDI AMSOM, PAZHANCHANNUR DESOM,
KOZHIKODE TALUK.

BY ADV. SRI.T.B.SHAJIMON

RESPONDENT:

T.DASAN, S/O. LATE KARAPPAN,
THAIKKOOTTATHIL HOUSE, KADALUNDI AMSOM DESOM,
KOZHIKODE TALUK.

BY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 08/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JP

M.N.KRISHNAN, J

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W.P.(C) No.29353 OF 2007

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Dated this the 8th day of October 2007

JUDGMENT

This writ petition is filed to set aside the order of arrest passed by the Munsiff's Court-II, Kozhikode against the petitioner. The petitioner is the judgment debtor and he is a part-time sweeper in Canara Bank and it is averred that he is having sufficient means to pay. The court below, on the basis of Exts.P2 and P3 found that no further evidence is necessary to prove the means. When a petition is filed for arrest and there is a contention that the carry home salary of the petitioner is Rs.735/- and except the averment that he is getting a monthly income of Rs.550/- from kuzhikoors, the court should have considered his objection dated 9.3.2007 and passed an order. It is the right of a civil liberty of a person that is being affected and therefore the court should have bestowed its best attention only after getting satisfied of the ingredients under Section 51 C.P.C.

Therefore the order under challenge is set aside and the matter is remitted back to the court below for consideration of the matter including the objections raised by the respondent. Since the writ petition is disposed of at the admission stage itself, the court below is directed to give notice to

the decree holder and proceed with the matter in accordance with law.

Writ petition is disposed of as above.

M.N.KRISHNAN, JUDGE

Cdp/-